

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7756 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 - No

KODARBHAI NATHABHAI

Versus

PATEL BHIKHABHAI PRABHABHAI

Appearance:

MR GIRISH PATEL for Petitioners

MR AJ PATEL for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 8

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 08/02/99

ORAL JUDGEMENT

In this petition under Articles 226 and 227 of the Constitution, the petitioners have challenged the judgment and order dated 31.8.1995 passed by the State Government through the Deputy Secretary (Appeals) in the Revenue Department quashing and setting aside the order dated 2.11.1994 of the Taluka Development Officer, Idar, District Sabar Kantha granting N.A. permission in respect of part of the land in survey No. 457 of village Virpur.

2. Initially by order dated 12.2.1963 the Mamlatdar, Idar had granted N.A. permission for the land admeasuring 3699 sq.mtrs. in Survey No. 457 in village Virpur of Idar taluka. in favour of the original holder of the land. The respondents herein had purchased plot Nos. 1 to 3 from out of the said land in the year 1967. Upon application made by the respondents herein, the Taluka Development Officer, Idar had by his order dated 5.10.1968 sanctioned the revised lay out plan. For the remaining land, the petitioners herein who had purchased the lands from the respondents submitted another application which was granted by the Taluka Development Officer on 2.11.1994.

3. Aggrieved by the aforesaid order dated 2.11.1994, the respondents herein preferred revision application No. 12/95 before the State Government hearing the appeals through the Additional Chief Secretary (Appeals). The appeal came to be allowed by his order dated 31.7.95/31.8.95. It is against the aforesaid order in appeal that the present petition is filed.

4. When this petition came up for admission hearing, by order dated 22.11.1996 this Court admitted the petition and passed an interim order directing the authorities to maintain status quo with respect to the subject matter of the petition.

5. When this petition was called out today, Mr AJ Patel, learned Counsel for respondent Nos. 1 to 7 herein (who were appellants before the State Government) submitted that his clients are desirous of withdrawing all the objections which they had lodged against the N.A. permission in favour of the petitioners herein and that, therefore, the respondents herein are desirous of withdrawing their appeal before the State Government which was already decided by the impugned order at Annexure "C". The learned counsel for the parties have also placed on record the consent terms dated 8.2.1999.

6. Having heard the learned counsel for the parties and in view of the consensus arrived at between the contesting parties and also having regard to the fact that the order dated 5.10.1968 was acted upon by all the parties and now the respondents herein (appellants before the State Government) are also desirous of withdrawing their objections as well as the appeal, the impugned order dated 31.8.1995 passed by the State Government in Appeal No. 12/95 is hereby quashed and set aside and the order dated 2.11.1994 of the Taluka Development Officer,

Idar (Annexure "B" to the petition) is hereby restored.

It is clarified that this order is passed at the instance of the petitioners as well as respondent Nos. 1 to 7 herein, on whose behalf consent terms are signed by the learned counsel for the respective parties and are presented before the Court.

7. The petition is accordingly allowed and the impugned order dated 31.8.1995 passed by the State Government in Appeal No. 12/95 (Annexure "D") is hereby quashed and set aside and the order dated 2.11.1994 of the Taluka Development Officer, Idar (Annexure "B") is hereby restored and the appeal is permitted to be withdrawn.

8. Rule is made absolute to the aforesaid extent with no order as to costs.

Sd/-

February 8, 1999 (M.S. Shah, J.)

sundar/-